

# **EXHIBIT G**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DANIEL RIVERA,

Plaintiff,

-against-

Civil No.  
16cv7552

HOME DEPOT U.S.A., INC.,

Defendant.

-----X  
HOME DEPOT U.S.A., INC.,

Third-Party Plaintiff

-against-

BRYAN'S HOME IMPROVEMENT CORP.,

Third-Party Defendant.

-----X

DATE: September 27, 2017

TIME: 11:10 a.m.

EXAMINATION BEFORE TRIAL of DANIEL  
RIVERA, the Plaintiff herein, taken by the  
Defendants, pursuant to Order, held at the  
offices of Ginarte, O'Dwyer, Gonzalez,  
Gallardo, & Winograd, LLP, 225 Broadway, 13th  
Floor, New York, New York before Marissa  
Eugenio, a Notary Public of the State of New  
York.

1  
2 A P P E A R A N C E S:

3  
4 GINARTE, O'DWYER, GONZALEZ, GALLARDO, &  
WINOGRAD, LLP

5 Attorneys for Plaintiff  
225 Broadway, 13th Floor  
6 New York, New York 10007  
BY: MICHAEL EDELMAN, ESQ.

7  
8 D'AMATO & LYNCH, LLP

9 Attorneys for Defendant: Home Depot  
225 Liberty Street  
10 New York, New York 10281  
BY: HENRY C. DIEUDONNE, JR., ESQ.

11  
12 CONNORS & CONNORS, P.C.

13 Attorneys for Defendant: Bryan's Home  
Improvement Corp.  
14 766 Castleton Avenue  
Staten Island, New York 10310  
15 BY: MICHAEL P. DECARLO, ESQ.  
16

17 ALSO PRESENT:

18 MARCIAL ARAUJO/SPANISH INTERPRETER/EIBER  
19  
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## S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between(among) counsel for the respective parties hereto, that: All rights provided by the C.P.L.R., including the right to object to any question, except as to form, or to move To strike any testimony at this(these) examination(s), are reserved, and, in addition, the failure to object to any question or to move to strike any testimony at this(these) examination(s) shall not be a bar or waiver to make such motion at, and is reserved for the trial of this action;

IT IS FURTHER STIPULATED AND AGREED by and between(among) counsel for the respective parties hereto, that this(these) examination(s) may be sworn to by the witness(es) being examined, before a Notary Public other than the

## S T I P U L A T I O N S (Cont'd)

Notary Public before whom this(these)  
examination(s) was (were) begun; but the  
Failure to do so, or to return the original  
Of this (these) examination(s) to counsel,  
Shall not be deemed a waiver of the rights  
Provided by Rules 3116 and 3117 of the  
C.P.L.R., and shall be controlled thereby;

IT IS FURTHER STIPULATED AND  
AGREED by and between(among) counsel for the  
Respective parties hereto, that this(these)  
examination(s) may be utilized for all  
Purposes as provided by the C.P.L.R.;

IT IS FURTHER STIPULATED AND  
AGREED by and between(among) counsel for the  
Respective parties hereto, that the filing and  
certification of the original of this(these)  
examination(s) shall be and the same hereby are  
waived;

## S T I P U L A T I O N S (Cont'd)

IT IS FURTHER STIPULATED AND  
AGREED by and between(among) counsel for the  
Respective parties hereto, that a copy of the  
Within examination(s) shall be furnished to  
Counsel representing the witness(es)  
Testifying, without charge.

IT IS FURTHER STIPULATED AND  
AGREED by and between(among) counsel for the  
respective parties hereto, that all rights  
provided by the C.P.L.R., and Part 221 of the  
Uniform Rules for the Conduct of Depositions,  
including the right to object to any question,  
except as to form, or to move to strike any  
testimony at this examination is reserved; and  
in addition, the failure to object to any  
question or to move to strike any testimony at  
this examination shall not be a bar or waiver  
to make such motion at, and is reserved to, the  
trial of this action.



1 Daniel Rivera

2 M A R C I A L A R A E U J O, called as the  
3 interpreter in this matter, was duly sworn  
4 by a Notary Public of the State of New  
5 York to accurately and faithfully  
6 translate the questions propounded to the  
7 witness from English into Spanish and the  
8 answers given by the witness from Spanish  
9 into English.

10 D A N I E L R I V E R A, called as a witness,  
11 having been first duly sworn by a Notary  
12 Public in and of the State of New York,  
13 was examined and testified as follows:

14 EXAMINATION BY

15 MR. DIEUDONNE:

16 Q. Would you please state your full  
17 name for the record?

18 A. Daniel Rivera.

19 Q. What is your current address?

20 A. 501 East Jersey Street, Apartment  
21 1, Elizabeth, New Jersey 07206.

22 Q. Good morning, Mr. Rivera.

23 A. Good morning.

24 Q. My name is Henry Dieudonne. I'm an  
25 attorney with D'Amato & Lynch. We represent

1 Daniel Rivera

2 Home Depot, the company against which you've  
3 brought a lawsuit. I'm going to ask you some  
4 questions this morning. I ask that you give me  
5 verbal answers only in Spanish through your  
6 interpreter. I ask that you allow the  
7 interpreter to finish his interpretation so as  
8 not to confuse him and in turn confuse me.  
9 Even though you may understand some English  
10 please keep all of your answers in Spanish. If  
11 you do not understand a question please let the  
12 interpreter know. If you need a break please  
13 let the interpreter know.

14 A. Okay.

15 Q. Now, the address that you gave is  
16 504 East Jersey Street; is that correct?

17 A. Yes.

18 Q. The apartment is it just Apartment  
19 1 or is there a letter after the one?

20 A. I think it's one because I don't  
21 know how to read. I don't know.

22 Q. Now, the city is Elizabeth in New  
23 Jersey; is that correct?

24 A. Yes.

25 Q. The zip code is 07206?



1 Daniel Rivera

2 A. Yes.

3 Q. How long have you lived at that  
4 address for?

5 A. I have three years and a half.

6 Q. Now, is that apartment in a  
7 building, a private house, a multi family  
8 house, or something else?

9 A. A house, two family.

10 Q. How many floors does that house  
11 have?

12 A. Two.

13 Q. On which floor do you live?

14 A. First.

15 Q. Now, the apartment where you live  
16 is it a studio, a one bedroom, two bedroom  
17 apartment, or something else?

18 A. It's an apartment, three bedroom.

19 Q. Now, do you live alone in that  
20 apartment?

21 A. No, with my family.

22 Q. Are you a married man?

23 A. I have company.

24 Q. Who else lives in the apartment  
25 with you?

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Daniel Rivera

A. My three children. Three of them are mine legally and one -- I have four but one is not mine. My wife after my accident in Salvador they raped her there and --

Q. If I understand you're married?

A. Yes. Not married, I have company.

Q. You're living at home with a girlfriend?

A. Yes, she's my partner, my wife.

Q. Is she the mother of your three children?

A. Yes.

Q. Other than your three children there is another child that's not your child?

A. Yes, there were a rape.

Q. He's your wife's child?

MR. EDELMAN: Objection to form.

A. Yes.

Q. What were the names and ages of those four children living with you?

A. First is Josue Daniel, '99.

Q. He was born in '99?

A. Yes. The second one is Catherine Vanessa, 2002, the third one Luz Emeraldalda,

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Daniel Rivera

2008. The other one that is not mine I know she was born in 2016, May 5th, that's the last one.

Q. What's her name?

A. Her name is Luciana.

Q. Now, the three children that are your children the last name is Rivera?

A. Rivera.

Q. What is Luciana's last name?

A. Rivera as well.

Q. Now, your three children were born in the State of New York?

A. No, only Luciana.

Q. Where were your three children born?

A. In El Salvador.

Q. Where were you born?

A. Salvador.

Q. What is your date of birth?

A. July 31, '78.

Q. What was your highest level of education in El Salvador?

A. Are you talking about where I study? I don't understand.

Q. If he got up to the second grade,

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Daniel Rivera

fourth grade, high school, something else?

A. I didn't go to school. My father died. I was four years old when he died. Since I was a smaller kid I dedicated myself to working. I didn't have time to go to school that's why I don't know how to read or write.

Q. Now, were you ever convicted of a crime in your home country of El Salvador?

A. No.

Q. When did you come to the states?

A. I got here in 2012.

MR. DECARLO: 2012?

THE INTERPRETER: 2012.

Q. How did you arrive in the United States in 2012?

A. Asking friends for help that's how I crossed the board.

Q. Did you cross the board from Mexico?

A. Yes.

Q. Now, once you crossed the Mexican border did you move to New York or did you settle in another state?

A. Freeport New York with my sister.

1 Daniel Rivera

2 Q. How long did you live in Freeport  
3 New York for?

4 A. A little bit of time, a year. I  
5 didn't have a job. I worked in the grass for  
6 two seasons. I came to Maryland, but I returned  
7 the second year two seasons in the grass.

8 Q. How long did you live in Maryland  
9 for?

10 A. I remember that it was a year and  
11 a half.

12 Q. Who did you live there with?

13 A. A cousin.

14 Q. After you left Maryland where did  
15 you move to?

16 A. That's when I came to Elizabeth.

17 Q. Who did you initially move in with  
18 in Elizabeth, New Jersey?

19 A. I came in with a friend that used  
20 to work in the company where I had the accident  
21 regarding that he recommended me to the boss.

22 Q. What is that friend's full name?

23 A. He is Carlos. The last name I  
24 don't remember because he's Ecuadorian.

25 Q. How long did you know Carlos

1 Daniel Rivera

2 before you moved in with him in Elizabeth?

3 A. We met each other like that we  
4 used to work together in the same company  
5 before in Maryland.

6 Q. Now, is it Carlos with an S or  
7 Carlo?

8 A. I cannot write it for you. I could  
9 only say it because I don't know how to read.

10 Q. I'll call him Carlos. Where does  
11 Carlos presently live?

12 A. He lives in Maryland.

13 Q. When was the last time you saw  
14 Carlos?

15 A. The days around my accident after  
16 a week I came I was living in Spring Valley, we  
17 had almost two weeks there staying there.

18 Q. When you say we you mean yourself  
19 and Carlos?

20 A. Yes because we shared a room  
21 together.

22 Q. How long did you live in Spring  
23 Valley for?

24 A. Living there?

25 Q. Yes, in Spring Valley.



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Daniel Rivera

A. I don't remember if it was three weeks. The first week to look for an apartment the lady Lanzo helped us find a hotel from there we found a room.

Q. You found a room in Spring Valley?

A. Yes.

Q. What was the address there at Spring Valley where you found a room?

A. I don't know. I was there for a short time.

Q. Now, when you had the accident for which we're here for today did you live in Spring Valley?

A. Yes, I was staying there.

Q. You were staying there with Carlos; is that correct?

A. Yes, at the beginning I lived in Spring Valley. Then, we were travelling like that but I couldn't take it anymore. We looked for a room because of that because we would come out at night for work and there was a lot of traffic towards Elizabeth. We would get there after 11:00 at night. That's when we would look for rent in the apartment.

Daniel Rivera

Q. You looked for a rental in Spring Valley?

A. Yes, Alonzo helped us look for it.

Q. Who is Alonzo?

A. The boss.

Q. What's Alonzo's last name?

A. I think it's Lojas I think. Could I go to the bathroom?

Q. Of course.

(Whereupon, an break was held at this time.)

Q. Have you ever been convicted of a crime in the United States?

A. No.

Q. At the time of your accident what company were you working for?

A. Bryan's Construction.

Q. Is it Bryan's Construction?

A. I cannot say it very well.

Q. What type of business was Bryan's Construction involved in?

A. I just know that that was the company.

Q. What did that company do in terms

1 Daniel Rivera

2 of work?

3 A. Roofing.

4 Q. Anything else?

5 A. The time I worked we only did  
6 that.

7 Q. Who did you report to at Bryan's?

8 A. Report? I don't understand.

9 Q. Who was your boss at Bryan's?

10 A. Alonzo.

11 Q. Alonzo Lojas?

12 THE INTERPRETER: I'm going to get  
13 some water if you don't mind.

14 MR. DIEUDONNE: Sure.

15 (Whereupon, at this time, a break  
16 took place.)

17 Q. Are you still employed by Bryan's  
18 Construction?

19 A. At the time of the accident I  
20 haven't returned -- I didn't return to the job.

21 Q. Immediately after the accident you  
22 stopped working for Bryan's Construction?

23 A. Yes.

24 Q. Now, the accident for which we are  
25 here for today when did it happen? I need the

Daniel Rivera

date.

A. August 22nd.

Q. Of what year?

A. 2015.

Q. Approximately what time of day was it?

A. It was before lunch, but I don't remember the time.

Q. What is the address of the location where the accident happened?

A. Yonkers.

Q. On what street in Yonkers did the accident happen?

A. I cannot write it down because we only had two days there.

Q. Do you recall the house number?

A. No.

Q. I'm sorry. Did you say that you had only been working there two days when the accident happened?

A. In the house, yes.

Q. How many floors did that house have?

A. It appears to me that it was two.

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Daniel Rivera

Q. The work that you were performing at that house what did it consist of?

A. The day before we were taking out old roofs from the back.

Q. What do you mean you were taking out the old roof from the back?

A. The old roof so we could replace it with a new one.

Q. The day before the accident had you completely removed the old roof?

A. One part the first day.

Q. Other than yourself how many other workers were engaged in removing the old roof?

A. One moment please. Carlos was there. Another Carlos that was the son of Carlos as well, son of Alonzo, another one that they picked him up I don't know him.

Q. Now, Carlos the son of Carlos where does he live?

A. They went to Maryland. I think they are always together.

Q. You think they went to Maryland with his father?

A. I would think so.

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Daniel Rivera

Q. When was the last time you saw him?

MR. EDELMAN: Which one?

MR. DIEUDONNE: The son of Carlos.

A. Since I stopped working there.

Q. Now, the son of Alonzo is he the son of Alonzo Lojas?

A. Yes.

Q. What is his full name?

A. I don't know the name. They would call me cousin.

Q. Now is Alonzo Lojas also from the country of El Salvador?

A. No Ecuador.

Q. Now, when you arrived at the job site the first day who told you what to do?

A. The first day I was going to work in the company or what?

Q. No, when a arrived at the job site before the accident happened?

MR. DECARLO: On the first day?

MR. DIEUDONNE: On the first day.

Q. Who told you what you had to do?

A. Alonzo said we have to strip the



1 Daniel Rivera

2 old roof.

3 Q. What materials did you use to  
4 strip the old roof?

5 A. Alonzo's son went up the ladder  
6 the first one on the side of the back,  
7 42 meters -- no, excuse me, 42 feet. We had  
8 that so we could work the whole area in the  
9 back. We put that ladder on the side of the  
10 back with that ladder. We would work.

11 Q. Other than the ladder or ladders  
12 what other instruments did you use what other  
13 tools did you use to remove the old roof?

14 A. We would use a harness so that we  
15 could tie ourselves. We would use a shovel so  
16 that we could strip.

17 Q. The shovel was meant to strip the  
18 old roof?

19 A. Yes to strip the old roof.

20 Q. Other than the ladders, the  
21 harness, the shovel, what other tools did you  
22 use to remove the old roof?

23 A. To remove the old roof you only  
24 use the shovel.

25 Q. Now, the tools that you've told me

1 Daniel Rivera

2 about the shovel, the harness, the ladders, who  
3 provided those to you?

4 A. That was given by Alonzo.

5 Q. On the first day as you started to  
6 work with the other workers was Alonzo also  
7 present and supervising your work?

8 A. He would only get there in the  
9 mornings.

10 Q. What do you mean by that?

11 A. He would get there to leave us at  
12 work and then he would do his errands and  
13 things that he needed to do.

14 Q. Alonzo Lojas would drop you off at  
15 the work site?

16 A. Yes.

17 Q. Would he supervise your work?

18 A. Another one from Home Depot.

19 Q. What would the other one from Home  
20 Depot do?

21 A. Supervise.

22 Q. What was the name of that  
23 individual from Home Depot who supervised your  
24 work?

25 A. I don't know the name.

Daniel Rivera

Q. Was it a man or a woman?

A. Man.

Q. Would you describe that person as an African American, a Latino, a black, a Hispanic, white?

A. Black guy, clear black guy.

Q. I think he means light skin, a black male?

A. Not white, he spoke Spanish, but I don't know if he was from what country. I don't know.

Q. Pursuant to his supervision what did he do?

A. He just got to supervise how the job was going.

Q. Would he talk to you and the other workers as you worked?

A. He would speak to the bosses.

Q. Would he speak to the workers such as yourself?

A. No.

Q. When you say he would speak to the bosses who are you referring to?

A. If Alonzo was not there he would

1 Daniel Rivera

2 speak to the other son that was in charge.

3 Q. If Alonzo was not present he would  
4 speak to Alonzo's son?

5 A. Yes.

6 Q. What would he say to them?

7 A. I don't know what they would talk  
8 about there.

9 Q. Now, on August 22, 2015, what time  
10 did you arrive at the work site where the  
11 accident happen?

12 A. The 22nd, August.

13 Q. What time of day did you arrive at  
14 the location where the accident happened?

15 A. We got there before eight. We  
16 started to work after eight.

17 Q. How did you get to the work site  
18 that day?

19 A. They took us in the van.

20 Q. Who drove the van?

21 A. Alonzo.

22 Q. The boss Alonzo Lojas?

23 A. If he didn't drive us his son  
24 drove us.

25 Q. That day the date of the accident

1 Daniel Rivera

2 the van was driven by Alonzo Lojas?

3 MR. EDELMAN: Objection of the  
4 form.

5 A. That day I don't remember if it  
6 was his son.

7 Q. Now, when you arrived at the work  
8 site on August 22, 2015, was the boss Alonzo  
9 Lojas present also?

10 A. Excuse me. I said 22nd you said  
11 the 27th.

12 Q. No, the 22nd, August 27th?

13 A. Yes.

14 Q. Was Alonzo, the boss, also present  
15 at the work site in the morning?

16 A. He got there in the morning.

17 Q. Yes. My question was was he  
18 present. Was the boss present?

19 A. No.

20 Q. Was the son present?

21 A. Yes.

22 Q. Before you started to work did the  
23 son of Alonzo have a talk with you and the  
24 other workers regarding what had to be done?

25 A. No.

1 Daniel Rivera

2 Q. When you started to work that day  
3 or after you started to work that day did  
4 Alonzo Lojas, the boss, have a talk with you or  
5 the other workers regarding what had to be  
6 done?

7 MR. EDELMAN: Objection to form.

8 A. Well the first day Alonzo always  
9 arrived in the morning. The first day we  
10 started to strip on this side. Then we reached  
11 to strip in the front almost to doorman. We  
12 reached the backside and we stripped.

13 Q. But my question was on the date of  
14 the accident did Alonzo Lojas have a talk with  
15 you and the other workers regarding what had to  
16 be done at the house either before you started  
17 to work or while you were working?

18 MR. EDELMAN: Objection to the  
19 form.

20 A. Yes, he would always talk to us in  
21 the morning before leaving.

22 Q. He did so before leaving on  
23 August 22, 2015?

24 A. Yes.

25 Q. On August 22, 2015, what did



1 Daniel Rivera

2 Alonzo say to you and the other workers as to  
3 what had to be done that day?

4 A. Well he told one to put new  
5 -roofing where it was prepared then I was  
6 stripping Carlos, the son Carlos, then Alonzo  
7 before leaving, there was a ladder, 12 or  
8 16 feet. He told me to use that one I put the  
9 ladders so that I could go up the strip and  
10 then I took the ladder, I went down on the  
11 backside because he had the ladder prepared, it  
12 was on the levelled roofing to one side like  
13 this in the two houses, then I came down, and I  
14 went up to strip the part the doorman in the  
15 front. Then in that process I took the second  
16 ladder, I went up on the ladder that Alonzo had  
17 put up, I took the second ladder with the left  
18 hand, then the process to put the ladder, the  
19 second one, the ladder Alonzo put up and moved  
20 towards my right side. When I started to fall  
21 on the left side when I was going on the floor  
22 I took the ladder with my hand. When I was on  
23 the floor I had electric shock through my whole  
24 left side and everything happened at that  
25 moment.

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Daniel Rivera

Q. Now, you just testified that  
Alonzo told you which ladder to use?

A. Yes.

Q. Now, that ladder you gave the  
measurements, I missed that. Could you describe  
that ladder like how long it was?

MR. EDELMAN: Which ladder?

MR. DIEUDONNE: The ladder that  
Alonzo told him to use. How long was it he  
stated but it I missed it.

MR. EDELMAN: As of how many  
ladders to use?

MR. DIEUDONNE: Well, the ladder --

MR. EDELMAN: Objection to form  
sorry.

Q. You stated that Alonzo pointed a  
ladder to you and told you to use it.

A. Yes.

Q. Could you describe that ladder in  
terms of measurements?

A. The second one?

Q. No, the one that he told you to  
use?

A. Well he put it up in the middle of

1 Daniel Rivera

2 the two homes.

3 Q. I just need the measurement. How  
4 long it was?

5 A. That's approximately 42 feet. He  
6 extended it approximately five feet, five or  
7 four yes.

8 Q. Where did Alonzo place that  
9 ladder?

10 A. On the fence.

11 Q. He placed the ladder on the fence?

12 A. Yes.

13 Q. I'm going to have some exhibits  
14 marked. I think it would help us tremendously.

15 (Whereupon, Defendant's Exhibit  
16 A-F, photographs, were marked for  
17 identification, as of this date by the  
18 Reporter.).

19 Q. I'm going to show you what's been  
20 marked as Defendant's Exhibit A.

21 A. That's the house where I had the  
22 accident.

23 Q. Now, looking at that picture  
24 Defense Exhibit A do you see where the accident  
25 happened?

1 Daniel Rivera

2 A. It was in between the two homes  
3 inside.

4 MR. EDELMAN: Indicating with his  
5 hand the left portion of this photograph that  
6 side. This is all the left side.

7 Q. I'm going to show you what has  
8 been marked as Defendant's Exhibit D. Do you  
9 see where the accident happened looking at D?

10 A. Alonzo put the ladder he extended  
11 it to second flat floor that's the first ladder  
12 he put up.

13 MR. EDELMAN: The witness is  
14 indicating his hand in the photograph.

15 MR. DIEUDONNE: Can we put this  
16 down? I could stand that's okay.

17 MR. EDELMAN: You'll hold it. By  
18 Counsel it looks like he was indicating  
19 the base of the ladder. The bottom part  
20 was up by the stairs there going all the  
21 way up.

22 Q. Now, looking at --

23 MR. DECARLO: Wait, the bases over  
24 there?

25 MR. EDELMAN: You could clarify it.

1 Daniel Rivera

2 MR. DIEUDONNE: I want to ask him.

3 Q. Looking at exhibit D can you show  
4 me where the base of the ladder was?

5 A. It was here.

6 MR. DIEUDONNE: Indicating the top  
7 step on the left of the exhibit.

8 MR. DECARLO: Can we have him mark  
9 it with an X?

10 MR. DIEUDONNE: Yes.

11 MR. EDELMAN: You want him to mark  
12 the base the bottom of the ladder?

13 MR. DIEUDONNE: The base, yes. An X  
14 would be fine whatever he could do.

15 MR. EDELMAN: If he can do an X.

16 Q. Now, where was the top of the  
17 ladder looking at Exhibit D?

18 A. It was closer to the corner here.

19 MR. EDELMAN: Over here?

20 THE WITNESS: On the flat roof  
21 there.

22 Q. Can he mark it?

23 A. It would be over the fence he  
24 extended over four, five feet over the fence.

25 Q. When you say he extended it are

1 Daniel Rivera

2 you referring to Alonzo?

3 A. Yes.

4 MR. EDELMAN: Indicating with his  
5 hand the portion of the roofing above the  
6 black colored fence along the second  
7 balcony or flat roof as he described it.

8 MR. DECARLO: Get some kind of a  
9 marking.

10 MR. EDELMAN: By Counsel if you let  
11 him. Can you indicate a part we'll make a  
12 marking there just indicate where  
13 approximately the top where the ladder is  
14 we just want to mark it.

15 A. Halfway of the fence.

16 MR. EDELMAN: Halfway above the  
17 fence?

18 THE WITNESS: Yes because he  
19 extended it like this so I could go up,  
20 going up from the level of the fence four  
21 feet, five feet over.

22 MR. EDELMAN: So four feet above  
23 the fence?

24 THE WITNESS: Yes.

25 MR. DIEUDONNE: Can he do a



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Daniel Rivera

marking?

MR. EDELMAN: He can't really  
write. Four feet above the fence. Do you  
see this area?

THE WITNESS: Yes.

MR. EDELMAN: Want to put a circle?

THE WITNESS: Yes.

Q. Let me show you what's been marked  
as Defendant's Exhibit E. Does this look  
familiar to you?

MR. EDELMAN: What on the  
photograph, the photograph itself?

MR. DIEUDONNE: Yes, the photograph  
itself.

Q. Does that ring a bell?

A. That's different to what's in the  
house. I don't remember.

Q. Now, back to Exhibit D. At some  
point that morning of August 22, 2015, you  
started climbing on the ladder that was placed  
by the lower X right here?

A. Yes. I went up after Alonzo told  
me to go up for the first time.

Q. Now, first you went up those steps

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Daniel Rivera

on the lower exhibit, right, the lower portion  
of the exhibit?

A. Yes, with the ones Alonzo told me  
to pick up.

Q. Now, as you climb the steps before  
you get on the ladder were you carrying  
anything?

A. The second ladder Alonzo told me  
to take up. I had it in the middle on my left  
hand, with the other hand I was holding on.  
When I was in the process of on the level of  
the fence in the process was when Alonzo's  
ladder had my foot, he moved like this towards  
my right side and I fell on the left side.

Q. I'm going to get to that. Now, the  
ladder that you were carrying with your left  
hand before you got on the other ladder. Now,  
that ladder can you describe it for me in terms  
of measurements the one that you were carrying  
with your left hand?

A. It would be 12, 16 feet half of a  
piece of a 32 ladder.

Q. Now, that ladder that you were  
carrying with your left hand what type of

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Daniel Rivera

ladder was it, a ladder, just a straight  
ladder, or something else?

A. I don't understand.

Q. Do you know what an A ladder is?

A. One that extends like this?

Q. Actually the A ladder looks like  
this.

A. No, it was a normal ladder.

Q. So the ladder that you were  
carrying with your left hand was a normal  
ladder?

A. Yes.

Q. Now, at some point you started  
climbing up the ladder that Alonzo had placed  
against the house holding on to an A ladder  
with your left hand; is that correct?

MR. EDELMAN: Objection of form,  
you could answer.

A. The mark. I don't understand what  
you're saying.

Q. When you started going up the  
ladder which was placed right here?

MR. EDELMAN: Indicating by the X  
on Exhibit D.

1 Daniel Rivera

2 Q. You were also holding on to  
3 another ladder with your left hand?

4 A. The one Alonzo told me to take  
5 out.

6 Q. Yes. Now, what was your intended  
7 destination as you were going up that ladder?

8 A. Alonzo told me to go up. The  
9 ladder on the flat roof, the second one, before  
10 he left we put a pillow -- we call it cushion  
11 like this, he threw it so that I could put it  
12 right there against that pillow there so I  
13 wouldn't screw the flat roof. That's what he  
14 told me he was going to do.

15 Q. Looking at Exhibit D and more  
16 specifically the circle on top of the exhibit  
17 that I'm pointing to is that where you intended  
18 to go with the other ladder?

19 A. Yes, he told me to go up the  
20 ladder.

21 Q. Now, did you make it to that area  
22 where the circle is?

23 MR. EDELMAN: Objection to form.

24 A. One level in the fence.

25 Q. You made it one level?

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Daniel Rivera

A. Yes.

Q. Did you actually make it up there  
by the circle?

A. No, I got to a process of the  
level of the one.

Q. What do you mean by that?

A. A process of the second ladder so  
I could put the second one -- all that happened  
when that moved towards my right side in that  
process I was in that process when I fell.

Q. What process were you in the  
middle of before you fell?

A. The process of to put the ladder.

Q. You were in the process of putting  
the other ladder that you were holding on to  
with your left hand somewhere else?

A. Yes.

Q. Where were you going to put that  
ladder that you were holding on to with your  
left hand?

A. Where Alonzo told me.

Q. Which is where? Can you show it to  
me in the picture?

A. Alonzo told me to do it mid the

1 Daniel Rivera  
2 flat roof so that I could strip the sides here  
3 doorman.

4 Q. So pretty much the same area?

5 MR. EDELMAN: He's saying the  
6 ladder into that area of the flat roof  
7 which is like the second -- it's at the  
8 top of the page of Exhibit D. It looks  
9 like a balcony or a flat roof. He's  
10 indicating to where on the front section  
11 of the roof.

12 Q. Now, you indicated that you just  
13 stated at some point that the ladder that  
14 Alonzo had placed against the house started to  
15 shift?

16 A. Yes.

17 Q. When that happened were you still  
18 on the ladder holding on to the other ladder  
19 with your left hand?

20 A. No in the process. We were in the  
21 levels of the second ladder like everything  
22 happened in the moment. The other one moved. I  
23 was falling, when I was going down I held on to  
24 the second ladder, when I was on the floor I  
25 felt the electric shock.

1 Daniel Rivera

2 Q. Yes, I'm going to get to that like  
3 I told you before. All that I'm trying to find  
4 out when the ladder that you were climbing on  
5 started to shift were you still on it?

6 A. Yes, in the process of.

7 Q. But were you still on the ladder?

8 A. Alonzo's, yes.

9 Q. Now, as you were still on the  
10 ladder when it started to shift were you still  
11 holding on to the other ladder with your left  
12 hand?

13 A. Like everything happened at the  
14 moment.

15 Q. I understand that, but as you were  
16 on the ladder that Alonzo had placed against  
17 the house when it started to shift were you  
18 still holding on to the other ladder with your  
19 left hand?

20 A. Yes, that's what I told you. I was  
21 in the process. Like everything happened at the  
22 moment and another one moved and I fell.

23 Q. Had the ladder that Alonzo placed  
24 against the house not moved where would you  
25 have placed the other ladder that you were

1 Daniel Rivera

2 holding on to with your left hand?

3 MR. EDELMAN: Objection to the  
4 form?

5 A. Where Alonzo told me.

6 Q. Which is by the circle or --

7 A. No. I was going to put it here so  
8 that I could strip the part. This thing here.

9 MR. EDELMAN: Indicating the center  
10 of the upper roof, the flat roof area to  
11 work on the top of the roof.

12 Q. I'm going to show you what's been  
13 marked as Defendant's Exhibit A. Now looking at  
14 Defense Exhibit A, can you show me where you  
15 would've placed the ladder that you were  
16 holding on to with your left hand?

17 A. Had the other ladder not shifted I  
18 was in the process of putting it on the flat  
19 roof.

20 Q. Is that a flat roof or a balcony?

21 MR. EDELMAN: Objection to form.

22 A. Flat roof.

23 Q. Now, can you put an X for me in  
24 the area where the other ladder or two Xs?

25 MR. EDELMAN: Can you read that



1 Daniel Rivera

2 back?

3 (The record was read as  
4 requested.).

5 A. Where I was going to put it so  
6 that I could work?

7 Q. Yes.

8 MR. DIEUDONNE: Does it show?

9 MR. EDELMAN: By Counsel, I could  
10 go over the base of it going over that.  
11 Off the record.

12 (Whereupon, at this time, a  
13 discussion was held off the record.).

14 Q. Now, you previously told me that  
15 the ladder that you were on immediately before  
16 your accident started to shift?

17 A. Where I was, yes.

18 Q. Now, what caused it to shift?

19 MR. EDELMAN: Objection to form.

20 A. Alonzo didn't secure it well.

21 Q. When you say that the ladder  
22 started to shift did it start to shift left, to  
23 the right, or something else?

24 A. Where I was in the right -- excuse  
25 me, in the left.

1 Daniel Rivera

2 Q. Started shifting to the left?

3 A. No, to the right where I was  
4 standing, yes.

5 Q. Now, immediately when the ladder  
6 started to shift what was your reaction?

7 A. I started to fall, I took the  
8 stairs, the second stairs, with my hand and  
9 everything happened in the moment. I was on the  
10 floor of the flat roof. I thought the electric  
11 shock.

12 Q. You said that you took the second  
13 stair with your left hand is it the second  
14 stair or second ladder?

15 A. Second ladder.

16 MR. EDELMAN: Off the record.

17 (Whereupon, at this time, a  
18 discussion was held off the record.).

19 Q. When you took the second ladder  
20 with your left hand what happened next?

21 A. Well, everything happened in the  
22 moment. When the ladder moved where I was  
23 standing that Alonzo put up I started to fall  
24 on the left side and took the ladder when I was  
25 going down to the left hand -- when I was on

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Daniel Rivera

the floor, I felt the electric shock on my whole left side.

Q. Now, where did you fall on to?

A. I fell on the flat roof.

Q. Now, looking at what was previously marked Defendant's Exhibit A do you see where you fell?

A. I was in the process of putting the ladder, the second one. Everything was -- how do I tell you? Everything happened in the moment. Where the ladder moved where I was standing and all of sudden I went towards the floor.

Q. But looking at that Exhibit A do you see where you fell, where you ended up after you fell?

A. Let's say because I was going up in the front where I put the ladder Alonzo on top of the fence that when I fell to the left side, when I fell over the flat roof.

Q. Yes, but my question was looking at that photo Exhibit A do you see where you ended up after you fell where your body ended up after you fell?

1 Daniel Rivera

2 A. Right here on the flat roof the  
3 front where I was.

4 MR. EDELMAN: He's indicating on  
5 the flat roof.

6 Q. Is that the area previously marked  
7 with an X? Is it an X?

8 A. Yes, like everything happened in  
9 the moment. When you feel the electric shock I  
10 blacked out and that's it.

11 Q. Now, you've brought up a couple of  
12 times electric shock, were you electrocuted?

13 MR. EDELMAN: Objection to the  
14 form.

15 A. In the moment I felt -- I felt it  
16 when I was on the floor.

17 Q. What caused your electrocution?

18 MR. EDELMAN: Objection to the  
19 form.

20 A. Everything was in the moment.  
21 When I was on the floor I felt the electric  
22 shock. I don't know where that came from.

23 Q. Were you told by anyone afterwards  
24 where the electric shock came from?

25 A. A co-worker told me that when I

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Daniel Rivera

went from the ladder hit the cable.

Q. What is that co-worker's name?

A. It was Carlos.

Q. Which ladder he told you touched the electrical cable?

THE INTERPRETER: Say that again?

Q. Which ladder he told you touched the electrical cable?

A. He didn't see it but he said it might of touched because I was attaching roof on the backside.

Q. Now, did Carlos witness your fall?

A. No, he didn't see. They saw smoke they saw smoke and the explosion that day.

Q. Who saw the smoke and the explosion?

A. Carlos, the son.

Q. What caused the smoking explosion?

A. When the ladder made contact and like everything happened at the moment. I don't remember.

Q. When the ladder made contact with what?

A. With electricity.

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Daniel Rivera

Q. Did any of the other workers --  
and I'm not referring to Carlos, witness your  
fall?

A. No, they didn't see. Some of them  
were in the back and some of them were below.

Q. Now, other than your co-workers  
did anyone witness your fall?

A. They saw the smoke, they came down  
to the area where I was, and they said that I  
was trembling. One of them I think carried me  
and brought me down to the stairs and they told  
me that they took me to the van.

Q. Now, that person might of carried  
you was that one of your co-workers?

A. Yes.

Q. What is that person's name, that  
co-worker's name?

A. I don't know. They just told me  
that they brought me down but they didn't tell  
me the name.

MR. EDELMAN: Before he said  
stairs. Again, did you mean stairs or  
ladders?

THE INTERPRETER: Brought me to the

1 Daniel Rivera

2 stairs. He meant brought me down to the  
3 stairs.

4 Q. You're saying that a co-worker  
5 brought you down?

6 A. Yes, that's what they told me.

7 Q. They took you down to the ground  
8 floor?

9 A. They said they carried me here.

10 MR. EDELMAN: Left shoulder.

11 A. They couldn't do it between the  
12 two the ladder Alonzo put up.

13 Q. You were carried back down to the  
14 ground floor on the home staircase or the  
15 ladder that Alonzo had against the house; which  
16 is it?

17 A. No, I'm referring to that. They  
18 say that they brought me down after my  
19 accident. I don't remember. They told me that  
20 they carried me to go down and they took me to  
21 the van.

22 Q. Did they tell you if you were  
23 taken down in the homes staircase through the  
24 home staircase?

25 A. Well, they just only told me that

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Daniel Rivera

they brought me down from then on. I don't know. I don't remember.

Q. You previously testified that after you fell you passed out?

A. Yes, I was in the dark.

Q. Did anyone tell you how long you had passed out for?

A. No. They told me that they wanted to call the ambulance. Alonzo did not want that. He wanted someone to take me, someone in particular to take me. They took a while for them to call the ambulance.

Q. Now, who told you that they wanted to call an ambulance and that Alonzo said no? Who is they?

A. One of the workers.

Q. What is that worker's name?

A. One of the ones that he picked up there.

Q. What's his name?

A. I don't know the name.

Q. He said that Alonzo said no?

A. Yes, they called him.

Q. Did he tell you why Alonzo said



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Daniel Rivera

no?

A. No, he didn't say. He only said that he didn't want the ambulance to take me. He wanted another car to take me.

Q. He wanted another car to take you to the hospital?

A. Yes.

Q. Now, you previously mentioned smoke and explosion?

A. That's what they told me.

Q. Now, when you regained consciousness did you notice smoke around you?

A. No.

Q. When you regained consciousness did you notice that parts of your body were burnt?

A. Yes. I felt the pain on my chest, on my part here.

MR. EDELMAN: Indicating back of left side of the neck.

THE WITNESS: Neck.

MR. EDELMAN: You said chest and front left section?

THE WITNESS: My whole left side

1 Daniel Rivera

2 towards the foot.

3 Q. Now, I'm going to get to that. My  
4 question was when you regained consciousness  
5 did you notice burns in any part or parts of  
6 your body?

7 A. Well I felt I couldn't get up  
8 anymore. I remember I was in the area of the  
9 hospital because I had my eyes closed, at the  
10 moment I started to regain consciousness and I  
11 remember in the hospital someone spoke to me  
12 and told me to open up my eyes. I don't know if  
13 it was the police or it was the ambulance. I  
14 don't know.

15 Q. You have to listen to my questions  
16 carefully. While you were at the hospital when  
17 you opened up your eyes did you notice burns in  
18 any part or parts of your body?

19 A. I felt my skin numb, everything in  
20 my whole arm was numb, on my left leg, and my  
21 whole neck was hurting and chest and I couldn't  
22 tighten my hands like this.

23 MR. EDELMAN: Indicating what he  
24 was saying --

25 Q. I'm going to discuss your pain,

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Daniel Rivera

the hospital, et cetera, but you have to answer the question that I'm asking of you. Do you understand?

MR. EDELMAN: For the record he was indicating top of the left hand and up his left arm. Again, back and neck, head, and left chest and just to get on the record.

MR. DIEUDONNE: Yeah, but that was not an answer to my question. I understand.

Q. You have to answer the question I'm asking you. My question was when you opened up your eyes at the hospital did you notice burns on any part or parts of your body? That's all that I'm asking you.

MR. EDELMAN: Did he see any burns or observe any burns?

MR. DIEUDONNE: Yes.

A. I felt my skin, I would squeeze it, I would scratch it, I didn't feel anything a lot of pain. That's all I felt.

Q. You stated that you did not feel your skin; is that correct?

MR. EDELMAN: Objection to form.

1 Daniel Rivera

2 A. Yes, I didn't feel it.

3 Q. You did not feel your skin where  
4 is that just in your left wrist or other parts  
5 of your body?

6 A. Yes, all this.

7 Q. Indicating where?

8 A. My whole arm.

9 Q. Your left arm?

10 A. Yes. Part of my back, a lot of  
11 pain.

12 Q. You stated that you did not feel  
13 your skin. Did you not feel your skin in your  
14 entire left arm?

15 A. Yes.

16 Q. Where else?

17 A. On my whole left side.

18 Q. Now, I'm going back to the house  
19 where the accident happened. Immediately after  
20 you regained consciousness while you were at  
21 the house after the accident?

22 A. No.

23 Q. Where did you regain  
24 consciousness?

25 A. In the hospital.

1 Daniel Rivera

2 Q. When you regained consciousness  
3 did you feel pain?

4 A. Yes.

5 Q. Where did you feel the pain?

6 A. On my whole left side in the back,  
7 neck, and then because he had the oxygen again  
8 and stuff.

9 MR. EDELMAN: Indicating mask on  
10 his face.

11 Q. So when you regained consciousness  
12 you felt pain in your neck, back, and your  
13 entire left side?

14 A. Yes, on my whole left leg -- on my  
15 left side the chest as well a lot of pain.

16 Q. Now, back at the house when you  
17 were falling did you feel the electrocution?

18 MR. EDELMAN: Objection to form.

19 A. When I was on the floor that's  
20 when I felt the electric shock.

21 Q. Did you feel the shock in your  
22 entire body or just in certain parts of your  
23 body?

24 A. I felt the shock on my left side.  
25 That's what I remember.

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Daniel Rivera

Q. Was it your entire left side that you felt the shock in?

A. Excuse me?

Q. Did you feel the electrical shock in your entire left side?

A. Yes.

Q. At that time when you felt the electrical shock in your left side were you bleeding?

A. At the moment I don't remember. I lost consciousness.

Q. When you regained consciousness at the hospital were you bleeding from any part or parts of your body?

A. I don't know. What I remember is that I felt pain like I told you my whole skin was numb and pain in the whole back.

Q. What hospital were you taken to?

A. I don't know. I don't know the name of it. All I know is that it was in Yonkers.

Q. Were you taken there by ambulance, by private car, or something else?

A. Ambulance.

1 Daniel Rivera

2 Q. Now, when you regained  
3 consciousness were you able to breathe on your  
4 own?

5 A. Very little because everything was  
6 hurting.

7 Q. Did you have an oxygen mask when  
8 you gained consciousness?

9 A. Yes.

10 Q. How long were you in the hospital  
11 for?

12 A. Three days.

13 MR. DECARLO: How many, two?

14 THE INTERPRETER: Three days.

15 A. Could I get up for a minute?

16 Q. Yes, of course.

17 (Whereupon, at this time, a lunch  
18 break took place.)

19 Q. While you were at the hospital for  
20 three days immediately after your accident did  
21 you have surgery?

22 A. At the moment, no.

23 Q. Were you given painkillers?

24 A. Yes. At the moment they gave me  
25 medicine.

1 Daniel Rivera

2 Q. What medicine were you given?

3 A. For the pain and for the muscle  
4 relaxer. They gave me other medication, but all  
5 I understood for that was that it was for the  
6 pain.

7 Q. Now, once you regained  
8 consciousness did you lose consciousness at any  
9 point while at the hospital for the three days?

10 A. Like my mind was not right, I was  
11 like traumatized.

12 Q. During those three days were there  
13 any MRIs taken at the hospital?

14 A. Yes.

15 Q. Which parts of your body were  
16 examined by an MRI?

17 A. The head, my back, the whole body.

18 Q. Were you told what the results of  
19 those MRIs were?

20 A. I don't remember. The doctor that  
21 I went to see did not speak Spanish.

22 Q. Were there any X-rays taken while  
23 you were in the hospital for those three days?

24 A. Yes, I think so.

25 Q. Which parts of your body were



1 Daniel Rivera

2 X-rayed?

3 A. They put me -- what is that called  
4 when they do the MRI? They checked part of my  
5 body.

6 MR. EDELMAN: Indicating the part  
7 of your body or the fingertips.

8 A. The whole body that's what they  
9 did.

10 Q. Was that a CAT scan machine?

11 A. I could not describe it because I  
12 don't know.

13 Q. Was your entire body placed inside  
14 a machine?

15 A. Yes.

16 Q. Were you told what the results of  
17 that exam were?

18 A. I don't remember.

19 Q. Did you have a conversation with a  
20 medical doctor or other healthcare professional  
21 while at the hospital for those three days?

22 A. All I know is that a lot of  
23 doctors came to see me.

24 Q. Yes, but did you have a  
25 conversation with any of them while at the

1 Daniel Rivera

2 hospital for those three days?

3 A. I don't remember.

4 Q. During those three days at the  
5 hospital were you visited by any of your  
6 co-workers?

7 A. No.

8 Q. Did Alonzo Lojas visit you?

9 A. He went for one day and the day  
10 that they discharged me. I called him so he  
11 could pick me up.

12 Q. Did he pick you up?

13 A. Yes.

14 Q. When he arrived at the hospital  
15 did have you a conversation with him?

16 A. I don't remember.

17 Q. When Alonzo Lojas picked you up  
18 did you discuss the accident?

19 A. When he told me for me not to  
20 worry that he was going to pay all of the  
21 medical expenses.

22 Q. Did he say anything else?

23 A. I don't remember anything else.

24 Q. Now, while you were at the  
25 hospital for those three days did a medical

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Daniel Rivera

doctor or other healthcare professional tell you that you would need surgery?

A. They gave me an appointment. They recommended some doctors, a little bit of that I remember. Alonzo took the papers away for a week, the ones they gave me in the hospital, and I was without a prescription for a week, buying Motrin the best way I can for the pain. Then, he went to see me with his wife where I was in the apartment. I was in fear of my life because they mentioned immigration. I was in fear the following day I wanted to leave Spring Valley.

Q. Who said anything about immigration?

A. His wife, Alonzo's.

Q. What did she say about immigration?

A. Like trying to, you know, pressure me with fear that she had an immigration attorney and I have a brother-in-law that had an accident in Houston that he called immigration on my brother-in-law and then I had fear when she mentioned immigration. I returned

1 Daniel Rivera

2 to Elizabeth.

3 Q. Now, you're saying that Alonzo has  
4 your papers for a week?

5 A. Yes, he took it away.

6 Q. Were those your discharge  
7 instructions and your prescriptions or  
8 something else?

9 A. Yes, because he said he was going  
10 to buy the medicine but he did not do it.

11 Q. Did you eventually get your  
12 discharge papers back and your prescription  
13 back?

14 A. I don't know if he gave it to me,  
15 if he gave me the whole thing. When I was in  
16 Elizabeth I took the papers to a pharmacy, they  
17 gave me medicine, one that was for inflammation  
18 and pain.

19 Q. When Alonzo picked you up at the  
20 hospital in Yonkers where did he drive you to?

21 A. Where I used to live.

22 Q. In Spring Valley?

23 A. Yes.

24 Q. How long did you remain in Spring  
25 Valley before you went to Elizabeth?

1 Daniel Rivera

2 A. For ten days.

3 Q. Now, you previously stated that  
4 you were at the time of discharge you were  
5 referred to a medical doctor by the hospital?

6 A. Excuse me?

7 Q. Let me rephrase. Before being  
8 discharged at the hospital did the hospital  
9 refer you to an outside medical doctors or  
10 outside medical doctors?

11 A. Yes.

12 Q. What is the name of the doctor or  
13 doctors that you were referred to by the  
14 hospital at the time of discharge?

15 A. No, I don't know the name.

16 Q. Was it one doctor or several  
17 doctors?

18 A. It was a doctor. I cannot tell you  
19 but --

20 Q. Was it only one doctor or several  
21 doctors that you were referred to?

22 A. At that day various doctors got  
23 me.

24 Q. Now, at the time of discharge from  
25 the hospital were you still in pain?

1 Daniel Rivera

2 A. Yes.

3 Q. Where did you have pain at the  
4 time of discharge?

5 A. My whole left side, the neck, the  
6 back, the feet below, my vision was in pain as  
7 well, a lot.

8 Q. You said your feet, which foot?

9 A. The left.

10 Q. What was wrong with your vision?

11 A. In El Salvador I had a small  
12 accident in my vision. I would see 70 percent  
13 and now after my accident I don't see anything.

14 Q. The left eye incident that you had  
15 in El Salvador can you tell me what that was,  
16 about what happened?

17 A. Small piece of garbage hit me and  
18 messed me up.

19 MR. EDELMAN: Which eye?

20 THE WITNESS: Left.

21 MR. EDELMAN: Off the record.

22 (Whereupon, at this time, a  
23 discussion was held off the record.).

24 Q. When you say small piece of  
25 garbage entered your left eye or made contact

1 Daniel Rivera

2 with your left eye can you describe that piece  
3 of garbage; was it a piece of metal, piece of  
4 wood, or something else?

5 A. It was a piece of garbage from a  
6 whole grain tree.

7 Q. After that incident you still had  
8 70 percent vision on in your left eye?

9 A. Yes.

10 Q. Who told you that you still had  
11 70 percent of vision in your left eye after the  
12 incident?

13 A. A doctor.

14 Q. Was it a doctor in El Salvador?

15 A. Yes.

16 Q. Now, immediately before the  
17 accident of August 22, 2015, you still had  
18 70 percent vision in your left eye?

19 A. No, I don't see anything.

20 Q. No, listen to my question. Before  
21 the accident in Yonkers did you still have  
22 70 percent vision in your left eye?

23 A. Before, yes.

24 Q. As I speak to you now how is your  
25 vision in the left eye?

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Daniel Rivera

A. It hurts. The pain after my accident -- I need a check up in my vision.

Q. As I speak to you now can you see through the left eye?

A. Nothing. I don't see anything.

Q. Now, since the accident in Yonkers have you been treated by an ophthalmologist eye doctor?

A. After that no. I told my doctor that we are in the process. I need a doctor for the vision.

Q. What is that doctor's name?

A. His name is Dr. Colon.

Q. Is the name Dr. Jose Colon?

A. I just know him as Colon.

Q. Will Dr. Colon arrange for you to see an eye doctor?

A. Yes. He told me that he has to confer with the doctors, then I told my doctor that performed the surgery on my back as well that was the same looking for treatment.

Q. I'm only talking about your left eye now.

A. Yes.



1 Daniel Rivera

2 Q. Do you have pain in your left eye  
3 as I spoke to you now?

4 A. Yes.

5 Q. While you were at the hospital for  
6 those three days did you also have pain in your  
7 left eye?

8 A. Yes.

9 Q. Now, looking at your left eye I  
10 see in the middle of your eye a white circle,  
11 like a white spot circular in shape?

12 A. Yes.

13 Q. Now, was it like that in El  
14 Salvador, your home country?

15 A. It had a little less, but after my  
16 accident I was left in the dark and then I felt  
17 I had no vision on my left side.

18 Q. What my question was that white  
19 circle that you have in your left eye did you  
20 also have it on your left eye in El Salvador?

21 A. Yes, but it was less. My doctor  
22 that I went to see told me because it was the  
23 same injury.

24 Q. Now, after your accident in  
25 Yonkers did that white circle that I'm looking

1 Daniel Rivera

2 at ever increase in size?

3 A. Yes because sometimes it gets red.  
4 It burns.

5 Q. As I look at you now do you have  
6 pain in any part of your body any parts of your  
7 body?

8 A. Always.

9 Q. Where do you feel the pain as I'm  
10 talking to you now?

11 A. I feel it on my left side, the  
12 neck, the back, the left foot.

13 Q. Any other place?

14 A. The vision burns a lot.

15 Q. When you say vision burns a lot  
16 the left eye?

17 A. Yes.

18 Q. When you say pain in your back is  
19 it your upper back, your mid back, or your  
20 lower back?

21 A. The whole back.

22 Q. Now, looking at your left arm I  
23 see some type of cast or splint. What exactly  
24 is that you have now that I'm looking at?

25 A. Like a glove because of my hand

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Daniel Rivera

here.

MR. EDELMAN: Indicating left.

A. My hand was no strength.

Q. You're referring to the left arm?

A. Yes.

MR. DIEUDONNE: Counsel, is that a  
brace would you say?

MR. EDELMAN: I wouldn't consider  
it as a brace. It has an elastic component  
to, you know, keep it together.

MR. DIEUDONNE: Would you say a  
brace? It looks like it goes up his left  
thumb up the arm.

MR. EDELMAN: Velcro.

MR. DECARLO: Velcro up to the  
elbow.

Q. How high does that go? The black  
brace that I'm looking at how high does that  
go? You could just point?

MR. EDELMAN: Can you describe it?

Q. Just point to how far?

MR. EDELMAN: Forearm covers the  
forearm.

Q. Are wearing that brace pursuant to

1 Daniel Rivera

2 a prescription?

3 A. Yes, the doctor.

4 Q. Which doctor prescribed that brace  
5 that you're wearing on your left arm?

6 A. Right there Dr. Colon.

7 Q. How long have you been wearing  
8 that brace for?

9 A. Since I started therapy.

10 Q. Do you also have a brace or a cast  
11 in your left leg?

12 A. Yes. I had one I don't have it now  
13 because when I remove it I feel like my foot  
14 gets cold and that helps me a lot.

15 Q. You're not wearing it today?

16 A. No, not now.

17 Q. Do you wear it every day or have  
18 you stopped using it completely?

19 A. I always use it.

20 Q. Why don't you have it on today?

21 A. Because the taxi got to my house  
22 very fast.

23 Q. Who prescribed it to you that left  
24 neck brace?

25 A. My doctor.

1 Daniel Rivera

2 Q. Dr. Colon?

3 A. Yes.

4 Q. Why did he prescribe it to you?

5 A. For the same thing because my knee  
6 would move a lot.

7 MR. EDELMAN: Indicating left knee.

8 A. Before my surgery.

9 Q. Now, you previously stated that  
10 you were receiving therapy?

11 A. Yes.

12 Q. When did you start to receive  
13 therapy?

14 A. It was a month after my accident.

15 Q. Who prescribed the physical  
16 therapy regiment to you?

17 A. When I went to the doctor to see  
18 Dr. Colon he gave me a process of therapy.

19 Q. What is Dr. Colon's specialty?

20 A. At the beginning they started  
21 treating me for a lot of pain, injections in  
22 the back because of a lot of pain that I had,  
23 on my left arm, and on my foot as well around  
24 the knee left.

25 Q. Now, where did you start to get

1 Daniel Rivera

2 that physical therapy?

3 A. Dr. Colon right there in the  
4 office.

5 Q. What did the physical therapy  
6 regiment consist of?

7 A. Put something cold on the back and  
8 the neck, in my arm, right here in my hand.

9 Q. Is it the left arm or the right  
10 arm?

11 A. Left.

12 Q. It was something electrical as  
13 well?

14 A. Cold.

15 Q. As I spoke to you today are you  
16 still receiving physical therapy?

17 A. Yes.

18 Q. When you initially started to  
19 receive physical therapy did you have pain in  
20 your body?

21 A. Yes.

22 Q. Where was the pain when you first  
23 started to receive physical therapy, where did  
24 you have the pain?

25 A. Always on my left foot, my arm, my

Daniel Rivera

neck, my back.

Q. You said arm, your left arm?

A. Left arm. Everything on the left side.

Q. Now, since you started physical therapy to this day has the pain in your left arm stayed the same, diminished, or something else?

A. The pain has always been there, always, that's why I have to take medicine for the pain.

Q. But my question was has the pain in your left arm since you started the therapy diminished, stayed the same, or something else?

A. Pain is not diminished, only thing is I could now move the arm.

Q. You could now move your left arm?

A. Very little. I move it very little because I feel a lot of pain and I can't do this and I can't -- the therapy as well they were having me pick up little rocks with my hand, but it would be difficult.

Q. Now, since you started therapy to the present has the pain in your neck stayed

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Daniel Rivera

the same, diminished, or something else?

THE INTERPRETER: Read the question  
back.

Q. I can repeat it. From the pain the  
therapy has the pain in your neck stayed the  
same or diminished?

A. It has diminished after the  
surgery of my neck, but a little bit. I always  
have a lot of pain.

Q. Now, since you started the  
physical therapy to the present now has the  
pain in your left foot stayed the same,  
diminished, or something else?

A. The pain always -- after the  
surgery of my knee I felt like strong pinches  
that went away, but pain always.

Q. But my question was has the pain  
diminished, increased, stayed the same since  
physical therapy started?

MR. EDELMAN: Foot or the knee,  
which one?

MR. DIEUDONNE: Left foot.

A. Just the pinching that I felt  
before the surgery that's the only thing that



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Daniel Rivera

left in movements that I had in the knee.

Q. I was talking about your left foot, not your left knee.

A. Yes, my left foot, yes.

Q. The pinching in the left foot went away?

A. The pinching yes, not the pain not all the time. That's what I always have the therapy when I hold on a little bit, I do the therapy in a bed to do therapy like this to bend my foot.

Q. How about your left knee since the therapy started to the present has the pain in your left knee stayed the same, diminished, or something else?

A. After my accident I have like a burn on my left foot and my arm. The doctor told me that operated the back it could be because of the electric shock.

Q. I'm taking about your left knee only. I want to know since the therapy started if the pain in your left knee has stayed the same or diminished?

A. Not the pain, only the pinching.

1 Daniel Rivera

2 Q. What has happened to the pinching?

3 A. Something that I would feel before  
4 my surgery, very strong pinching, very strong,  
5 that's what left but the pain has always stayed  
6 there.

7 Q. Now, how long after you were  
8 discharged from the hospital in Yonkers did you  
9 see a medical doctor?

10 A. The process was in the same month.

11 Q. Who was the first medical doctor  
12 that you saw following your discharge?

13 A. Dr. Colon.

14 Q. Where is Dr. Colon's office?

15 A. The address I don't remember well.

16 Q. Is it also in New Jersey?

17 A. Yes, right here in New York.

18 Q. For the first time that you went  
19 to Dr. Colon's office that following the  
20 discharge how did you get to his office?

21 A. Someone recommended it.

22 Q. Did you get there by train, by  
23 cab, by car, or something else?

24 A. By bus.

25 Q. How far is his office from where

1 Daniel Rivera

2 you live in Elizabeth?

3 A. The taxi brought me and told me  
4 that it's 45 minutes.

5 Q. Now, did Dr. Colon recommend that  
6 you have surgery?

7 A. Yes, he did an MRI.

8 Q. He did an MRI of which part of  
9 your body?

10 A. The back first and then knee.

11 Q. Which knee?

12 A. The left.

13 Q. Other than the back and the left  
14 knee did Dr. Colon order an MRI for other parts  
15 of your body?

16 A. Yes from my neck.

17 Q. Other than the neck what other  
18 part of your body had an MRI?

19 A. I had blood. They checked my  
20 blood, how do you call this?

21 THE INTERPRETER: I don't  
22 understand what he's saying, some word there I  
23 can't understand it hold on. One second.

24 A. Trinidad, it's the hospital.

25 MR. EDELMAN: Trinidad.

1 Daniel Rivera

2 Q. Did you go to Trinidad Hospital?

3 A. Yes to do before the surgery of my  
4 neck to do blood work and something to check my  
5 body to see how I was doing.

6 Q. I was only asking you about the  
7 MRIs in Dr. Colon's office not the surgeries.

8 INTERPRETER: I'm telling him to  
9 respond to his question and then I can't hear  
10 him.

11 MR. DIEUDONNE: Sure.

12 Q. Did Dr. Colon tell you the results  
13 of the back MRI?

14 A. Of the back he told me that I had  
15 a nerve getting close to the bone right here in  
16 the back when the nerve would get attached to  
17 it I would jump -- my body would jump very  
18 strongly. Even when I was sleeping I had the  
19 strong jump and the nerve would hit the bone.  
20 They had to scrape my bone so the nerve could  
21 stop making contact.

22 Q. Now, did Dr. Colon tell you what  
23 the left knee MRI revealed?

24 A. The left that I had the movements  
25 in my knee like it would tingle.

1 Daniel Rivera

2 Q. Did Dr. Colon tell you what the  
3 MRI to your neck revealed?

4 A. My neck, yes. When they did --  
5 they sent me to get the MRI, that was to doctor  
6 the one that I operated my neck.

7 Q. What I'm asking you is if you were  
8 told by Dr. Colon the results of the neck MRI?

9 A. The doctor that operated the neck  
10 that's who recommended the prescription so that  
11 they can do the MRI.

12 Q. Were you told what the MRI to the  
13 neck revealed?

14 A. Yes.

15 Q. What were you told?

16 A. I had a like a pinched nerve that  
17 was giving me a lot of pain. I had to be  
18 treated so the pain could calm down.

19 Hold on, one second. Give me a  
20 second.

21 Q. Sure. From the time of discharge  
22 to the present have you received steroid  
23 injections to your back?

24 A. Yes, for the pain.

25 Q. How many steroid injections have

1 Daniel Rivera

2 you received for your back?

3 A. It was a lot. I don't remember.

4 Q. Who recommended that you receive  
5 those steroid injections to your back?

6 A. Dr. Colon.

7 Q. Did those injections relieve pain  
8 to your back?

9 A. It would help me for two weeks  
10 after the injection, not everything, but it  
11 will help a little.

12 Q. What would happen after those two  
13 weeks?

14 A. The pain will return.

15 Q. Since your discharge at the  
16 hospital in Yonkers did you receive steroid  
17 injections to your neck?

18 A. Neck, no. The surgery that was  
19 done was on my left arm, the shoulder, and here  
20 on my elbow.

21 MR. EDELMAN: Indicating left.

22 Q. I'm going to clean up that since  
23 your discharge in the hospital in Yonkers have  
24 you received steroid injections in your left  
25 elbow?

1 Daniel Rivera

2 A. Yes, when the doctor was treating  
3 me, Colon.

4 Q. Now, is Dr. Colon the physician  
5 who gave you those injections to your left  
6 elbow?

7 A. Yes.

8 Q. Is he the one who also gave those  
9 injections to the back?

10 A. Yes.

11 Q. How many injections did you  
12 receive to your left elbow?

13 A. It was various because the process  
14 they'll put it here on the shoulder and the  
15 elbow.

16 Q. Did the injections to the left  
17 elbow relieve your pain?

18 A. For some time.

19 Q. For how long?

20 A. For two weeks.

21 Q. What would happen after those two  
22 weeks?

23 A. The pain would always return the  
24 same.

25 Q. From time of your discharge at the

1 Daniel Rivera

2 hospital to the present did you receive  
3 injections to your left shoulder?

4 A. Are you saying after the surgery?

5 Q. At any time. Did you receive  
6 injections to your left shoulder?

7 A. Yes.

8 Q. How many?

9 A. They were various. I don't  
10 remember.

11 Q. Did the injection to your left  
12 shoulder relieve your pain?

13 A. Yes, it would help me a little.

14 Q. Did Dr. Colon also give you those  
15 injections to your left shoulder?

16 A. Yes.

17 Q. Other than your back, your left  
18 elbow, your left shoulder, did you receive  
19 steroid injections to any other part or parts  
20 of your body?

21 A. The knee as well.

22 Q. Which knee?

23 A. The left.

24 Q. Was that also administered by  
25 Dr. Colon?



1 Daniel Rivera

2 A. Yes.

3 Q. Did that relieve the pain in your  
4 left knee?

5 A. The same, always a little.

6 Q. Did Dr. Colon at any point  
7 recommend that you have surgery?

8 A. Yes. He sent me for the MRI.

9 Q. Since your accident of August 22,  
10 2015, have you had surgery?

11 A. I had the one on the knee because  
12 of the same treatment.

13 MR. EDELMAN: Left knee.

14 A. Left, yes left.

15 Q. You had left knee surgery?

16 A. Yes, that was the first one.

17 Q. When was that approximately?

18 A. I don't have the date ultimately.

19 Q. Who recommended that you have  
20 surgery to your left knee?

21 A. Dr. Colon.

22 Q. Who performed the surgery?

23 A. It was a doctor there that will  
24 treat the bone.

25 Q. Does the name Dr. Seidenstein ring

Daniel Rivera

a bell?

A. I don't know.

Q. Were you told by either Dr. Colon or the doctor who performed the surgery to your left knee why the surgery was necessary?

A. Yes.

Q. What were you told?

A. To fix the movement that the knee had.

Q. When you say movement what do you mean by that?

A. Movement that my knee would move a lot. It was not normal.

Q. The knee, the left knee, would move without you actually wanting it to move?

A. Yes.

Q. For that surgery to your left knee were you admitted at the hospital or did you go home the same day after the surgery?

A. Yes, I was in the hospital the whole day after the surgery.

Q. Did you sleep over?

A. No. The whole day yes, but the same day.

1 Daniel Rivera

2 Q. After the surgery did you have a  
3 conversation with the doctor who performed the  
4 surgery to your left knee?

5 A. Yes, before getting treated.

6 Q. Or after the surgery did you have  
7 a conversation with the surgeon?

8 A. Yes, he would always give me  
9 medical appointments so that I could get check  
10 ups always.

11 Q. Immediately after you had the left  
12 knee surgery did the surgeon tell you how the  
13 surgery went?

14 A. Yes.

15 Q. What did he tell you?

16 A. What he told me was that the  
17 movement had been reconstructed.

18 Q. As I speak to you today do you  
19 still have instability in your left knee?

20 A. Yes.

21 Q. Is it the same as before the  
22 surgery or has it diminished?

23 A. Like we spoke about before, it was  
24 the strong pinching that's what I don't have  
25 anymore, the movement that was the change.

1 Daniel Rivera

2 Q. Now, are you still being treated  
3 by that surgeon for your left knee?

4 A. I always go to get checked.

5 Q. That surgeon is it a he or a she?

6 A. It's a man.

7 Q. When was the last time he checked  
8 your left knee? He examined your left knee.  
9 I'm sorry.

10 A. Excuse me. The ones that always  
11 check parts is Dr. Colon always.

12 Q. You told me that you're still  
13 being treated by that surgeon who performed the  
14 surgery on your left knee?

15 A. Yes.

16 Q. What does he do for you when he  
17 works on your left knee?

18 A. He checks how it is and he gives  
19 me medicine for the pain.

20 Q. Lately has he discussed the  
21 overall condition of your left knee with you?

22 A. Yes, he asks how I'm doing.

23 Q. What do you tell him?

24 A. A lot of pain always and the  
25 tingling I feel in my feet after the accident,

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Daniel Rivera

the electric shock that does not go away.

Q. Your left knee?

A. Yes, my left knee.

Q. Has that surgeon told you that you will need additional surgery to the left knee?

A. Not for the moment no but to continue the therapy always.

Q. That surgeon has told you to continue therapy for your left knee?

A. Yes, the surgeon saw me for some time but always when I go to Dr. Colon's office they were always treating me.

Q. Now, at some point you had back surgery; is that correct?

A. Yes.

Q. When did you have back surgery?

A. It was 2016, but I don't remember the month.

Q. Was that after your left knee surgery?

A. After.

Q. Who recommended that you have surgery to the back?

A. Dr. Colon.

1 Daniel Rivera

2 Q. Did Dr. Colon tell you why surgery  
3 to your back was necessary?

4 A. Yes.

5 Q. What did he tell you?

6 A. He told me that I have the nerve  
7 that made me move my body, it was necessary to  
8 scrape the bone so that the nerve will not  
9 stick.

10 Q. Who performed the surgery to your  
11 back?

12 A. It was always Dr. Colon.

13 Q. Dr. Colon performed the surgery to  
14 your back?

15 A. Yes.

16 Q. Where was the surgery performed?

17 A. I don't know the hospital where  
18 they took me. I don't remember.

19 Q. Were you admitted at that  
20 hospital?

21 A. Yes they took me to the area where  
22 they did the surgeries.

23 Q. Did you go to the same hospital  
24 that he did the surgery or did you sleep over  
25 night?

1 Daniel Rivera

2 A. The same day.

3 Q. After the surgery were you told  
4 how the surgery went?

5 A. Yes.

6 Q. What were you told?

7 A. That the bone was scraped the area  
8 of the bone so that that nerve would not make  
9 contact with the bone.

10 Q. Were you told to continue physical  
11 therapy for your back?

12 A. Yes, always.

13 Q. Now, since the surgery to your  
14 back has the overall condition of your back  
15 improved?

16 A. I don't have the pinching of the  
17 nerve that would make me jump anymore that is  
18 not there anymore the pain always continues.

19 Q. Since the surgery to your left  
20 knee has the overall condition of your left  
21 knee improved?

22 A. Just the movement that they  
23 reconstructed and the pinching.

24 Q. Now, following the surgery to your  
25 back you got surgery to your neck?

1 Daniel Rivera

2 A. After.

3 Q. So the surgery to your neck was  
4 because of the third surgery that you had?

5 A. Yes.

6 Q. When did you have surgery to your  
7 neck?

8 A. I don't remember the month.

9 Q. Was it in 2017?

10 A. I don't remember if it was three  
11 months or four months.

12 Q. But it was this year?

13 A. Yes.

14 MR. EDELMAN: Three to four months  
15 ago?

16 THE WITNESS: Yes.

17 Q. Who performed the surgery to your  
18 neck?

19 A. Braskin.

20 MR. EDELMAN: Counsel, I think it's  
21 Ratzker.

22 MR. DECARLO: Ratzer,  
23 R-A-T-Z-K-E-R.

24 A. I have a lot of pain. I'm tired.

25 Q. Do you want to resume tomorrow at



1 Daniel Rivera

2 10:30?

3 A. Yes.

4 Q. That will be fine. We will resume  
5 the deposition here tomorrow morning at 10:30.

6 A. Okay.

7 (Whereupon, at this time, the  
8 deposition ended for today at 3:40.) .  
9

10 \_\_\_\_\_  
DANIEL RIVERA

11 Signed and subscribed to  
12 before me, this \_\_\_\_\_ day  
13 of \_\_\_\_\_ 2017.

14 \_\_\_\_\_  
Notary Public  
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C E R T I F I C A T E

STATE OF NEW YORK )

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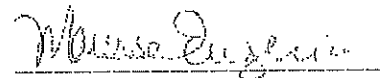
COUNTY OF RICHMOND

I, MARISSA EUGENIO, a Notary Public  
within and for the State of New York, do  
hereby certify:

THAT DANIEL RIVERA, the witness whose  
deposition is hereinbefore set forth, was duly  
sworn by me and that such deposition is a true  
record of the testimony given by such witness.

I further certify that I am not related  
to any of the parties to this action by blood  
or marriage; and that I am in no way interested  
in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 28th of SEPTEMBER 2017.



MARISSA EUGENIO

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